

ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION

VOLUME XXIX

Held: November 17, 1987

At: St. Andrew's Church Hall
Bentinck Street
Sydney, Nova Scotia

Before: Chief Justice T. A. Hickman, Chairman
Assoc. Chief Justice L. A. Poitras, Commissioner
Hon. G. T. Evans, Commissioner

Counsel: George MacDonald, Q.C., Wylie Spicer, & David Orsborn:
Commission Counsel
Clayton Ruby, Ms. Marlys Edwardh, & Ms. Anne S. Derrick:
Counsel for Donald Marshall, Jr.
Michael G. Whalley, Q.C.: Counsel for City of Sydney
Ronald N. Pugsley, Q.C., Joel Pink, Q.C.,:
Counsel for John F. MacIntyre
Donald C. Murray: Counsel for William Urquhart
Frank L. Elman, Q.C., & David G. Barrett:
Counsel for the Donald MacNeil estate
Jamie W. S. Saunders, & Darrel I. Pink:
Counsel for Attorney General
James D. Bissell: Counsel for the R.C.M.P.
Al Pringle: Counsel for Correctional Services Canada
William L. Ryan: Counsel for Evers, Green and MacAlpine
Charles Broderick: Counsel for Carroll
S. Bruce Outhouse: Counsel for Wheaton & Scott
Guy LaFosse: Counsel for Davies
Bruce H. Wildsmith, & Graydon Nicholas:
Counsel for Union of Nova Scotia Indians
E. Anthony Ross, & Kevin Drolet: Counsel for Oscar N. Seale
E. Anthony Ross, & Jeremy Gay: Counsel for Black United Front

Court Reporters: J. Graham Robson, & Judith M. Robson, OCR, RPR

MEDIA POOL COPY

INDEX - VOLUME XXIX

Katherine O'Handley

By Mr. MacDonald 5333
By Mr. Pugsley 5339

Leotha Seale

By Mr. Spicer 5341
By Mr. Pugsley 5344
By Mr. Ross 5345

Oscar Seale

By Mr. Spicer 5351
By Mr. Ruby 5358
By Mr. Pugsley 5359
By Mr. Nicholas 5367
By Mr. Ross 5372
By Mr. Ruby 5405

Discussion between Commission and Counsel 5414

Arthur J. Mollon

By Mr. MacDonald 5418
By Ms. Derrick 5438
By Mr. Ross 5449
By Mr. Nicholas 5455

Gail Rudderham Chernin

By Mr. Spicer 5467
By Ms. Derrick 5470
By Mr. Ross 5471

COURT REPORTER'S CERTIFICATE AA-3

INQUIRY RECONVENED AT 9:37 o'clock in the forenoon on Tuesday, the 17th day of November, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1 | MR. SPICER:

2 | My Lords. Mrs. O'Handley, please.

3 | KATHERINE O'HANDLEY, being called and duly sworn, testified as
4 | follows:

5 | BY MR. MacDONALD:

6 | Q. You are Mrs. Kay O'Handley?

7 | A. Katherine O'Handley.

8 | Q. Thank you. And you're a resident of Sydney?

9 | A. Wildwood Drive in Howie Centre.

10 | Q. Howie Centre? Okay. And you're the sister of John MacIntyre,
11 | is that correct?

12 | A. I am.

13 | Q. You were employed for quite a few years with the Sydney police?

14 | A. Yes sir.

15 | Q. How long were you employed there?

16 | A. Twenty-nine years.

17 | Q. What was your job with the police?

18 | A. Well, I was stenographer, and in later years, I was police matron.

19 | Q. What would've been your job in 1971? Were you a stenographer
20 | then?

21 | A. Yes, sir.

22 | Q. What were your duties as stenographer?

23 | A. Well, a lot of typing and summonses and the different work that
24 | goes on in the police department.

25 | Q. Were you the only stenographer at the time you were doing that

- 1 | job?
- 2 | A. No, sir, there were others.
- 3 | Q. How many would be employed at one time?
- 4 | A. One other.
- 5 | Q. One other?
- 6 | A. Yes.
- 7 | Q. Would part of -- Was part of your duty to type the statements
8 | that were taken by the detectives?
- 9 | A. Yes.
- 10 | Q. What would determine whether a statement would be typed or not?
- 11 | A. Well, I'd be asked to type a statement by one of the detectives,
12 | and I would type it.
- 13 | Q. The statement then would be handed to you, and you would be
14 | asked to type it, is that correct?
- 15 | A. That's right.
- 16 | Q. And if it -- If you weren't asked to type it, then you didn't?
- 17 | A. No, I wouldn't even see it.
- 18 | Q. Now, what about occurrence reports, Mrs. O'Handley? Would they
19 | be typed as well?
- :0 | A. Not all of them. If one was important or they needed it, they
:1 | might ask me to type it.
- 22 | Q. Again then, only if you were asked would something be typed?
- 23 | A. Yes, sir.
- 24 | Q. It wouldn't be routine, for example, every morning for you to go
25 | in, take the occurrence reports, and type out what was there?

1 | A. No, sir.

2 | Q. Now, I've called you to this Inquiry, Mrs. O'Handley, for a very
3 | specific purpose, and it's with respect to certain statements
4 | that we have introduced and which have been typed, and I'd like
5 | to show them to you.

6 | MR. MacDONALD:

7 | It's Exhibit, My Lords, 56, which is a handwritten statement of
8 | Patricia Harriss at 61 and 62, which are statements of Mary Patricia
9 | O'Reilley and Catherine O'Reilley.

10 | BY MR. MacDONALD:

11 | Q. Mrs. O'Handley, the handwriting on those statements, is that
12 | your brother's handwriting?

13 | A. Yes, sir.

14 | Q. Now, I want to show you the typewritten versions of those state-
15 | ments. In Volume 16 at page 65, Mrs. O'Handley, is the type-
16 | written copy of the statement of Patricia Harriss; that is, the
17 | original which is Exhibit 56, is that correct?

18 | A. Yes, sir.

19 | Q. Now, what I want to direct your attention to is the second page
20 | of the handwritten statement and the -- page 66 of Exhibit 16.
21 | On page 66, the name Sergeant W. Urquhart appears, but it does
22 | not appear on the handwritten statement. Are you able to give
23 | me any explanation why that would have been?

24 | A. No, sir, I have no explanation.

25 | Q. Would it be fairly frequent that Sergeant Urquhart would witness

1 statements taken by your brother?

2 A. I would say, yes.

3 Q. Could it have been just routine for you to note on the typewritten
4 copies that Sergeant MacIntyre -- I'm sorry -- that Sergeant
5 Urquhart would be present any time your brother had taken a
6 statement?

7 A. I can't say. No, I don't think I'd feel like that. It wouldn't be,
8 you know, every time we'd take a statement.

9 Q. Could you -- And you can't offer any explanation as -- then why
10 Sergeant Urquhart's name would appear as a witness on that
11 statement even though it does not on the handwritten?

12 A. No, sir.

13 Q. Did you ever have occasion where you were told on the typewritten
14 statement, "Type in someone's name as a witness. He's going to
15 sign the original later," or anything to that effect?

16 A. Yes, I have.

17 Q. That has happened, has it?

18 A. Yes, sir.

19 Q. Now, the other two statements that I have here -- As we go along
20 on page 69 of Exhibit 16, that's the statement of Terrance
21 Gushue. On page 70, it is also noted that Detective Urquhart
22 was present on the typewritten copy, but on page 73, which is
23 the corresponding page of the handwritten, he is not noted to
24 be present.

25 A. Yes, sir.

1 Q. Mary Patricia O'Reilley, the original statement being Exhibit 61
2 and then in 16, we are on page 74, and 75, the same thing.
3 Detective Urquhart is a witness but is not present, at least
4 not noted on the handwritten statement to be present.

5 A. Yes.

6 Q. And similarly for Catherine O'Reilley. No, different for
7 Catherine O'Reilley. For Catherine O'Reilley, you see the
8 original Exhibit 62 on --

9 MR. MacDONALD:

10 And that is reproduced, My Lords, in Volume 16 at page 80 and 81.

11 BY MR. MacDONALD:

12 Q. Sergeant Urquhart has, in fact, signed that statement as a witness.
13 and that is what shows on the handwritten part on page 79. Is
14 that corect?

15 A. Yes, sir.

16 Q. Now, wasn't it normal or -- There is provision on the handwritten
17 form for a witness to sign the document, isn't there?

18 A. Yes, sir.

19 Q. And on the Catherine O'Reilley statement, that's in fact where it
20 is signed?

21 A. Yes.

22 Q. Immediately above the date, and was it the practice of Sergeant
23 MacIntyre to sign statements on the bottom in the way that these
24 original statements are shown? You see his name is always on the
25 bottom of the page?

KATHERINE O'HANDLEY, by Mr. MacDonald

1 A. Yeh. I never really noticed. You know, I couldn't say for sure.

2 Q. I'm only showing you these as representative, Mrs. O'Handley.

3 There are other documents in the files that have the same occur-
4 rence; that is, the witness noted to be present on the type-
5 written copies but not on the handwritten. I take it you would
6 have the same explanation in all cases that -- You're unable to
7 tell us why that would be?

8 A. No, sir.

9 MR. MacDONALD:

10 Thank you. That's all I have.

11 BY MR. MacDONALD:

12 Q. I wanted to show you page 63, and let me get an original copy
13 of that handwritten statement as well.

14 MR. MacDONALD:

15 Can I have Exhibit 55? Thank you.

16 BY MR. MacDONALD:

17 Q. Exhibit 55, Mrs. O'Handley, is -- has been identified as a portion
18 or -- a first statement, I believe it's been called, of Patricia
19 Harriss. Do you recognize the handwriting on that?

20 A. Yes, sir.

21 Q. Whose is that?

22 A. Sergeant Urquhart's.

23 Q. Okay. And on page 63 of Volume 16 is a typewritten copy. Is
24 that -- That is on a different type of form than every other type-
25 written statement we have seen. Would that have been typed up at

1 the Sydney Police Station?

2 A. I couldn't say. I'm sure I didn't type it.

3 Q. Was it your practice to always use the Sydney Police letterhead
4 when you were typing matters up?

5 A. Yes, sir. Yeh.

6 Q. Okay.

7 MR. MacDONALD:

8 That's all I have. Thank you.

9 BY MR. PUGSLEY:

10 Q. Mrs. O'Handley, taking a look at those statements that my friend,
11 Mr. MacDonald, has shown to you, the typewritten statements, do
12 you have any recollection as to whether or not you in fact typed
13 those statements up?

14 A. I don't recall, but, you know, having worked there, I feel that
15 possibly I did, but I don't recall doing them.

16 Q. Yes. There are no initials on the typewritten pages.

17 A. No, sir.

18 Q. It was not your practice to put your initials on when you typed
19 a statement?

20 A. No, sir.

21 Q. And there were -- You were one of two stenographers who might've
22 done the typing at that time?

23 A. Yes, sir.

24 MR. PUGSLEY:

25 Thank you. That's all the questions I have.

KATHERINE O'HANDLEY, by Mr. Pugsley

1 MR. MURRAY:

2 No questions on behalf of William Urquhart.

3 MR. ELMAN:

4 No questions on behalf of Donald C. MacNeil.

5 MR. CHAIRMAN:

6 That's all. Thank you.

7 THE WITNESS:

8 Thank you.

9 MR. SPICER:

10 Next witness is Mrs. Seale -- Mrs. Leotha Seale. I should indicate
11 to the Commission at this time that Commission Counsel have been
12 asked to call both Mrs. Seale and Mr. Seale by solicitors for
13 Mr. MacIntyre with respect with the conversation involving John
14 Pratico.

15
16
17
18
19
20
21
22
23
24
25

MR

1 LEOTHA SEALE, being called and duly sworn, testified as follows:

2 BY MR. SPICER:

3 Q. Your name is Leotha Seale?

4 A. Right.

5 Q. Mrs. Seale, I just want to ask you a couple of questions concern-
6 ing a conversation that we understand you had with John Pratico.

7 A. That's right.

8 Q. Can you relate to us where that conversation took place and what
9 the substance of the conversation was?

10 A. This took place in New Waterford -- my mother's place.

11 Q. Could you try speaking up just a little bit, because the mikes --
12 having a little trouble with them.

13 A. This took place in my mother's place in New Waterford.

14 Q. That's Mrs. Gibbons?

15 A. That's right. Yes. John was boarding there. He had a room, and
16 I went there about in December -- around December -- around
17 Christmas time.

18 Q. Do you remember what year that would've been?

19 A. '71.

20 Q. '71 or '81?

21 A. No. Oh, '81, I'm sorry.

22 Q. Okay.

23 A. I'm getting all mixed up now.

24 Q. Okay.

25 A. '81, yes. And I brought my mother a grocery order. This was

around Christmas time.

1 Q. Yes.

2 A. And my mother was there by herself, and I was talking to my
3 mother, and all of a sudden, John comes out of the room, and
4 he says to me, "Mrs. Seale, how are you?" I says, "Fine.
5 Thank you." He says, "You know me." I says, "You look familiar,"
6 I says, "but I don't know who you are." So he told me he was
7 John Pratico, and we start talking for a while, you know, and
8 he says, "He did it. He did it, you know. He did it." I
9 said, "What are you talking about, John?" He says, "Junior,"
10 he says, "he stabbed Sandy," he says like that to me, and I
11 tried to avert, you know, this conversation, but he kept on
12 talking, and he told me that he was by a bush drinking beer
13 that night, and he seen Sandy and Marshall come up and they
14 were arguing, and all of a sudden, I says -- I said, "I don't
15 want to hear no more," I says, you know. He says, "Oh, yeh,"
16 he says, "You got to -- I got to tell you," he says. "He went
17 and," he says, "he stabbed Sandy." I says, "Well, okay," I
18 says, "what was the argument about? Do you know?" He says,
19 "All of a sudden," he says, "I don't know what he was
20 arguing about, but he's -- All of a sudden, he -- Sandy spoke
21 out right loud," he says, "And I wasn't going to do your dirty
22 work," he says like that to him. And that's it. And I just
23 cut it off. You know, I didn't want to hear no more, see, about
24 it, see. Yeh. Yeh.

25 Q. Was your husband there at the time of this conversation?

A. No. No. It was just myself, you know, yeh. Yeh.

1 Q. Had you met John Pratico at all before this conversation?

2 A. No. No. I'd -- The only time I seen was at the trial, you know,
3 in '71.

4 Q. Yes.

5 A. I seen him on the stand. That's the only one.

6 Q. Did you get any sense during that conversation, Mrs. Seale, of
7 what kind of shape he was in? Did he seem nervous, agitated or
8 anything?

9 A. No. No. No, he was really, you know, all right. He wasn't
10 drinking or nothing, see.

11 Q. What time of the day did the conversation take place?

12 A. Oh, this was about six o'clock -- five, six o'clock, you know,
13 around that time.

14 Q. Did you recount that conversation to -- subsequently then to
15 your husband?

16 A. Yes. Not right away now because, see, when I got home, he was
17 sound asleep in bed, see. I think it was about a couple of
18 days later, I'd say. I told him, you know, that -- who I met,
19 you know. Yeh. Yeh.

20 Q. Do you know how long the conversation took?

21 A. With me and John?

22 Q. Yes.

23 A. Oh, about ten minutes, I guess, you know.

24 Q. Did you -- After that one -- If I understand you correctly, at
25 that time, John was staying at Mrs. Gibbons?

LEOTHA SEALE, by Mr. Spicer, by Mr. Pugsley

1 A. Yes. Yes, she rents a -- rooms, you know. Yeh. Yeh.

2 Q. Did you or, to your knowledge, did your husband follow up on
3 that conversation with John Pratico later? Did you go back and
4 ask him about it or --

5 A. No, I didn't. No. But my husband went. We go -- usually go at
6 Easter, you know. So he went at Easter time, you know, and --

7 Q. He talked to him later?

8 A. Yeh. Yeh. This is around March, I guess, or April. I forget the
9 time, you know, Easter was.

10 Q. Sure. But the conversation you had was around Christmas time in
11 1981?

12 A. Yes. Yeh. Yeh.

13 Q. Did you have any conversations with Sergeant MacIntyre during the
14 time of the re-investigation; that is, during 1982, 1983?

15 A. No, none.

16 Q. No?

17 A. No.

18 Q. Okay.

19 MR. SPICER:

20 Thanks very much.

21 THE WITNESS:

22 Okay.

23 BY MR. PUGSLEY:

24 Q. Mrs. Seale, I just wanted to make sure I took on correctly
25 Mr. Pratico's comment when you asked him what Junior and Sandy

1 were talking about.

2 A. Yes.

3 Q. What did Mr. Pratico say?

4 A. He -- I asked him -- I says -- I asked him if he knew what they
5 were arguing about.

6 Q. Yes.

7 A. And he says he doesn't know what they were arguing about, but he
8 heard Sandy raised his voice and says, "I am not going to do your
9 dirty work."

10 Q. "I am not going to do your dirty work."

11 A. That's right. Yeh.

12 MR. PUGSLEY:

13 Thank you.

14 BY MR. ROSS:

15 Q. For the record, my name is Tony Ross,
16 and I'm going to just ask you one or two questions about Sandy.
17 As part of the terms of reference of this Inquiry, if I read
18 them correctly, is to investigate the circumstances in the death
19 of Sandy Seale among other things. Tell me, Mrs. Seale, when
20 was it that you moved from Sydney over to Westmount?

21 A. In -- the end of November we moved to Westmount. That was in
22 1970.

23 Q. And was there a pattern which was followed by the family every
24 year with particular reference to during the summers? Where did
25 you spend your summers?

- 1 A. Oh, out our cottage in New Campbellton.
- 2 Q. In where?
- 3 A. Cottage in New Campbellton.
- 4 Q. Yes. And you'd been spending your summers out there --
- 5 A. Yes.
- 6 Q. -- since when?
- 7 A. Oh, gosh.
- 8 Q. A very long time, isn't it?
- 9 A. Oh, yes, about thirty-six, thirty-seven years now --
- 10 Q. I see.
- 11 A. -- it's been. Yeh.
- 12 Q. And was it a habit to take the entire family with you out to the
13 cottage?
- 14 A. All the time, yes. As soon as the school closed, you know, we
15 go out there, and we won't come back until it opens up again.
- 16 Q. I see. You spend the entire summer out there?
- 17 A. Yeh. Yeh.
- 18 Q. What about Sandy's friends? Did you know Sandy's friends quite
19 well?
- 20 A. Oh, I knew quite a few of them, yeh. They used to come to the
21 house all the time.
- 22 Q. Spent a lot of time at your house?
- 23 A. Oh, yes. Yes.
- 24 Q. As a matter of fact, would you feed them from time to time?
- 25 A. Certainly.

1 Q. And what about Sandy? Would he visit his friends from time to
2 time?

3 A. Yes, he would. Yes.

4 Q. And among these friends, did you know -- you ever know him to
5 be a friend of Junior Marshall?

6 A. No, never seen Junior Marshall at all until at the wake house.

7 Q. At the wake?

8 A. That's the only time I've seen him, yeh.

9 Q. I see.

10 A. Yeh.

11 Q. Now, after this incident in May of 1971, did you at any time
12 speak to Junior Marshall, either on the phone or in person?

13 A. No, never did.

14 Q. Did you attend the preliminary inquiry in 1971?

15 A. No. No.

16 Q. What about the trial? Did you attend the trial --

17 A. Yes, I did.

18 Q. -- of Junior Marshall?

19 A. Yes.

20 Q. Were you there every day?

21 A. Yes. Yeh.

22 Q. Now, subsequent to the trial, around November of 1971, there
23 was an apparent re-investigation by the R.C.M.P. Were you aware
24 of this?

25 A. No.

- 1 Q. And during that investigation, there was a suggestion that Sandy
2 and Junior Marshall were involved in an attempted robbery. Did
3 you know anything about that suggestion in 19 --
- 4 A. Not a thing. Not a thing. No. No.
- 5 Q. Some time later, around 1973, 1974, it appears as though Donna
6 Ebsary and/or David Ratchford approached the Sydney police about
7 an attempted robbery and a stabbing. Did you know anything at
8 all about that?
- 9 A. Not a thing, no.
- 10 Q. And in December, 1981, you've just indicated to us that you had
11 a conversation with Pratico.
- 12 A. That's right.
- 13 Q. Now, the evidence is that around February -- February the 25th
14 that Pratico was interviewed by Corporal Carroll of the R.C.M.P.
15 and that he had given a statement to them. Did you know anything
16 about this?
- 17 A. No. No.
- 18 Q. I see. Do you know whether or not your husband had any contact
19 with John Pratico early in 1982?
- 20 A. No, not in early -- I'd say he -- The only time that he spoke to
21 him was at Easter.
- 22 Q. Around Easter --
- 23 A. Yeh.
- 24 Q. -- of 1982?
- 25 A. Yeh. But I just don't know now if Easter was around -- in March -

1 latter part of March or the first of April, you know.

2 Q. And subsequent to this Inquiry, Mrs. Seale, there were quite a
3 few allegations about bumming and attempted robbery. Did you,
4 yourself, try to find out from any of Sandy's friends whether or
5 not Sandy was in the habit of bumming money or anything of that
6 nature?

7 A. I wouldn't do that, no.

8 Q. You didn't speak to Sandy's friends?

9 A. No. No, not like that.

10 Q. Do you know if your husband spoke to some of Sandy's friends?

11 A. I wouldn't know.

12 Q. Okay. He'd answer those questions.

13 A. Yeh. Yeh.

14 Q. Tell me about -- Was Sandy doing average in school, better than
15 average, or not too well?

16 A. Oh, just average.

17 Q. And I take it that -- What did he do in his free time?

18 A. Skate, play hockey. It's mostly, you know -- He used to --

19 Q. And what about during the summer --

20 A. Baseball.

21 Q. Baseball?

22 A. Yeh. Yeh.

23 Q. What --

24 A. And in the -- At the cottage, he used to do a lot of swimming
25 and -- You know.

LEOTHA SEALE, by Mr. Ross

1 Q. And as far as your son was concerned, was he a difficult young
2 fellow, or did you have any difficulties with him?

3 A. No, I never had no difficulty with him. No.

4 Q. What about your neighbors? Did they have any problems with
5 him as far as mischief was concerned?

6 A. No, not a bit.

7 Q. Is it fair to --

8 A. Never heard of any problems. No.

9 Q. Is it fair to say that your husband ran a rather tight ship at
10 home and kept everything under control?

11 A. Certainly did.

12 Q. Perhaps he'll tell us some more about that.

13 A. Yeh.

14 MR. ROSS:


15 Thank you very much, Mrs. Seale. No more questions.

16 THE WITNESS:

17 Thank you.

18 MR. SPICER:

19 The next witness is Oscar Seale.
20
21
22
23
24
25



1 OSCAR SEALE, being called and duly sworn, testified as follows:

2 BY MR. SPICER:

3 Q. Your name is Oscar Seale?

4 A. Yes, sir.

5 Q. Mr. Seale, I just want to ask you a few questions concerning a
6 conversation with John Pratico, and I gather from your wife's
7 testimony that you spoke to John in 1982 at some point.

8 A. Right.

9 Q. Can you tell us when that conversation took place and who was
10 there and what the substance of the conversation was?

11 A. I guess -- This was in '82 around -- some time in March, and we
12 were -- I think it was closer to Easter or the holidays or some-
13 thing was coming in because I usually go to visit my mother-in-law
14 at them times. But when I talked to John, he -- I had heard
15 something about this investigation starting from the radio or
16 through some way, and I asked -- I called John and he -- sit
17 down with me in this room.

18 Q. Where was that, sir.

19 A. This -- Mrs. Gibbons home. And I started asking him about the --
20 you know, did he hear anything from anybody? And he said yes,
21 he had been getting phone calls and that he had talked with one
22 of the R.C.M.P. officers. I'm not sure if he said Corporal
23 Carroll or who, and he also said to me that he was concerned
24 about Marshall getting out of jail. Well, I told him -- I said,
25 "You have nothing to fear if they investigate you. Tell them the

1 truth of what happened, and you tell them just what happened,"
2 and I said, "Nobody can hurt you."

3 Q. Yes.

4 A. And I said, "If you -- You have to get a lawyer, I'm sure." I
5 says, you know, "Go down and see Mr. Hinchey or -- They would
6 advise you." Yeh, we had a conversation like that.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Spicer

- 1 Q. We're having trouble hearing. You'll have to speak up a bit.
- 2 A. So I started to talk to John and I asked John, I asked him,
- 3 "What went on that night in the park"? "Did you see what went
- 4 on"? He said, "Yes". He was by a bush having a beer. He seen
- 5 my son and Marshall come up through the park and they stopped.
- 6 He said, "Then all of a sudden they started to argue," and
- 7 Marshall took out this knife and drove it into my son and then
- 8 he said he ran away. I said, "Did you hear first what they were
- 9 arguing about"? He said, "Yes". He said, "Sandy told Donald
- 10 that he wasn't going to do none of his dirty work for him".
- 11 And I said, "Then you immediately ran away"? He said, "Yes".
- 12 "Well", I said, "I'm telling you I take a dim view of you for
- 13 running away and leaving my son in that condition". So he
- 14 says he was kind of scared.
- 15 Q. He said he was kind of scared?
- 16 A. Yeh, that's what he told me. So that's about the end of the
- 17 conversation with him.
- 18 Q. Are you able to give us any indication of what kind of shape
- 19 John Pratico was in when you had that conversation?
- 20 A. Yes, Relative to that, I inquired from my mother-in-law,
- 21 what--you know, what he was doing there because I didn't -- I
- 22 didn't know this boy was staying there, and , you know, she
- 23 said to me that he had come and asked for a room and she had
- 24 this extra room and she give it to him. And I asked her, "Was
- 25 he drinking and stuff"? She said, "No," but he was seen by some

1 worker who used to come to visit and that they -- that he was
2 on some kind of pills or something. He was taking some kind of
3 medication anyhow and that was it. Then I questioned her about
4 if there were any Mounties there. She said, "He had numerous
5 phone calls from"-- well, she don't know, but -- but she thinks it
6 was the Mounted Police but they never came in the house to
7 talk to him. They always took him out to do their talking
8 so she couldn't tell me no more than that about --.

9 Q. Was it your understanding from the -- from the conversation you
10 had with John Pratico that by the time you'd spoken to him,
11 he'd already spoken to Corporal-Sergeant Carroll?

12 A. Yeh, I'm pretty sure he -- he had spoken to the police.

13 Q. Did he indicate that to you or was that just a feeling you got
14 from the conversation?

15 A. Well, that's the feeling I got from the conversation.

16 Q. Yeh.

17 A. That he -- he did speak to the --

18 Q. He had already spoken with them?

19 A. Yes.

20 Q. Did he indicate to you at all what he'd said to the R.C.M.P.
21 or what he'd been saying to them?

22 A. No. No.

23 Q. Did you ask him?

24 A. No. I didn't know.

25 Q. Did you have any further conversations with him, with John Pratico

1 | after this one you've just told us about?

2 | A. No, never.

3 | Q. Did you recount that conversation to anybody in the Sydney Police
4 | Department?

5 | A. No, not that I can remember.

6 | Q. Was John MacIntyre an acquaintance of yours, Mr. Seale?

7 | A. Well, no, I had known of John MacIntyre for years.

8 | Q. Did you have any discussions with Mr. MacIntyre at about the
9 | time of this reinvestigation in 1982 and 1983, through that
10 | period?

11 | A. About?

12 | Q. About the reinvestigation.

13 | A. Yeh, I talked to John in -- in '82 I think it was. I went to
14 | see Mr. MacIntyre.

15 | Q. Are you able to tell us what it was that you were talking to
16 | him about at that time?

17 | A. Yes, I asked him if he knew anything about, you know, this
18 | investigation and what was taking place and he -- he told me
19 | that he didn't know too much about it at that time because
20 | the R.C.M.P. had come and took all of his files. And there was
21 | only certain questions I asked him and he answered them the
22 | best, I guess, he could at the time.

23 | Q. Did he express any views to you as to what he thought of this
24 | reinvestigation about the R.C.M.P. coming and taking his files?

25 | A. No, he didn't express no view. No, nothing that I can recall.

- 1 Q. Did he say anything to you at all about what he thought about
2 the reinvestigation?
- 3 A. No, he just said that he was asked to look into this
4 investigation himself and being he had done the first one,
5 he didn't think it would be right for him to go back at it
6 again, so he suggested that another police force take-over
7 this investigation.
- 8 Q. Did you have any further conversations with Sergeant MacIntyre
9 during the time of the reinvestigation and up to and including
10 the time of the reference hearing in Halifax?
- 11 A. Yes, I did talk to John about the polygraph. I heard about
12 the polygraph and I asked Mr. MacIntyre was there a polygraph
13 taken and he said they were of Ebsary and -- and MacNeil.
- 14 Q. Jimmy MacNeil.
- 15 A. Yeh.
- 16 Q. Did he express any views to you about the results of the
17 polygraph test?
- 18 A. Yeh, he just said that MacNeil was inconclusive and Ebsary
19 had passed it.
- 20 Q. Yeh, did Sergeant MacIntyre ever express any views to you
21 about how he thought the reference was being conducted, the
22 witnesses that were going to be called or the witnesses that
23 weren't going to be called at the hearing in Halifax?
- 24 A. Oh, definitely not.
- 25 Q. He never said anything to you about that at all?

1 A. No, definitely not.

2 Q. And other than the discussion concerning the polygraph and
3 the earlier conversation that you referred us to a minute ago,
4 did you have any -- other than those two did you have any
5 other conversations with John MacIntyre concerning the scope
6 of the reinvestigation, the reference hearing, or what he
7 thought about the way it was being conducted?

8 A. Well, I can't recall. I have -- I did talk to John, I guess,
9 more than once, a couple of times, but I'm not quite sure what
10 it was about. Sometimes it was -- I think at one time there
11 we talked about -- about MacNeil -- about Jimmy MacNeil.

12 Q. Yeh.

13 A. And -- On his character, you know, what kind of fellow he
14 was in the City before all this. And I asked him did he know
15 much about him and he said that he didn't know that much about
16 him, that all he knew that he was a fellow -- well, you know,
17 he drank and that, but --

18 Q. He said he knew that he drank?

19 A. Yeh, that he was a heavy drinker.

20 Q. Did you have any discussions with Sergeant MacIntyre about
21 John Pratico?

22 A. About John Pratico? No, not that I can recall.

23 Q. You gave evidence at Junior Marshall's trial?

24 A. Yeh, I did.

25 Q. Did you have any discussions with -- with Donald C. MacNeil prior

1 to giving that testimony as to why you were being called?

2 A. No, definitely not.

3 Q. Did you have any discussions with him at all or did he --

4 A. No discussions with Donald MacNeil whatsoever. He -- I'm
5 pretty sure that they had called -- they had called me and my
6 wife from where we were sitting in the court house.

7 Q. And you had no discussions either with Mr. MacNeil or with
8 Mr. Matheson?

9 A. No, definitely not.

10 Q. Did you have any discussions at or about the time of the trial
11 with Mr. Khattar or Mr. Rosenblum?

12 A. Never.

13 BY MR. RUBY:

14 Q. Mr. Seale, there's two areas that concern me, one is; you said
15 that you heard about the polygraph. Do you remember where and
16 when, under what circumstances you heard about it? In what
17 year perhaps --

18 A. About the polygraph? I'm not sure. I'm not quite sure how I
19 knew about the polygraph.

20 Q. And you've heard evidence --

21 A. It could have been at the -- maybe in discussion -- in
22 conversation with Mr. MacIntyre he did mention that himself.
23 I'm not quite sure.

24 Q. Conversations with?

25 A. Mr. MacIntyre.

1 Q. Do you remember what year it was approximately?

2 A. Oh --

3 Q. Seventies? Eighties?

4 A. Oh, no, this was -- this was during the investigation.

5 Q. In 1982, the reinvestigation?

6 A. In 1982.

7 Q. I take it that you and Sergeant MacIntyre or Chief MacIntyre
8 as he then was, maintained a relationship on a friendly basis
9 over the years?

10 A. Oh, certainly.

11 Q. And would your mother-in-law, Mrs. Gibbons, have known that?

12 A. I don't know. Would she know Mr. MacIntyre?

13 Q. No, would she know that you had a relationship that was
14 maintained on a friendly basis with him?

15 A. Oh, definitely not. My mother-in-law is a cripple and the only
16 way that she could get around is if one of us or her own
17 immediate family brought her to our home or something like
18 that, but in no way would she know absolutely nothing about
19 none of this.

20 MR. RUBY:

21 Thank you, sir.

22 BY MR. PUGSLEY:

23 Q. Mr. Seale, after you had this conversation with John Pratico
24 at or about Easter time in 1982, did you hear Mr. Pratico on
25 the radio?

- 1 | A. Yes, I certainly did.
- 2 | Q. And can you describe that to us, what you heard?
- 3 | A. Well, I was driving along in my car and one of the reporters
4 | from C.J.C.B. was interviewing Mr. Pratico. The conversation
5 | I heard, he asked Mr. Pratico about the night in the park and
6 | all that and Mr. Pratico said that no -- no way was there
7 | anybody else in that park.
- 8 | Q. And when was this in the point of time with respect to your
9 | conversation, was it before or after the Easter time conversation?
- 10 | A. This was after.
- 11 | Q. After the Easter time conversation?
- 12 | A. This was after.
- 13 | Q. Did you recognize Pratico's voice on the radio?
- 14 | A. Oh, definitely, definitely. You could tell Pratico -- I knew
15 | from his voice right away who it was. In fact, the announcer,
16 | he asked him, you know -- he told his name. He said who he
17 | was speaking to and all that; John Pratico.
- 18 | Q. The evening of the incident in Wentworth Park, you and
19 | Mrs. Seale went to the hospital to be with your son and you
20 | left the hospital at about what time, sir?
- 21 | A. I left the hospital that morning roughly about six o'clock in
22 | the morning.
- 23 | Q. Did you have any conversation with Donald Marshall, Jr., that
24 | morning?
- 25 | A. Yes.

1 Q. Would you tell us about that?

2 A. Yes, after I left the -- the hospital I came home and after
3 sitting a while thinking and worrying and wondering I decided
4 to call Donald.

5 Q. Yes.

6 A. I called and his father answered the phone and I asked him was
7 Donald home and he says, "Yes". And I said -- "Well", they
8 said, "he's in bed". I said, "Well, I'd like to speak to him".
9 "I'm Oscar Seale", I said, "and I understand that he was with
10 my son last night and he got--he was seriously wounded". And
11 Mr. Marshall states he didn't know nothing about it. So he
12 said he would get him up. So he got Donald up and Donald answered
13 the phone. And I asked Donald was he with Sandy last night.
14 He says, "Yeh". He said they were in the park, he said, and
15 they were talking and two -- two men pulled up in a car.
16 I'm not sure quite if it said a white car with Manitoba
17 license plates or a blue car with white Manitoba license plates,
18 or something to that effect.

19 Q. Yes.

20 A. And they asked him and my son if they had any cigarettes and
21 matches and they said, "No". He said -- He then said that
22 this man took out a knife and says, "I don't like Niggers", and
23 stabbed Sandy in the stomach. He then took the knife and said,
24 "I don't like Indians", and made a slash at him.

25 Q. Yes.

- 1 A. And he ran away. So I said, "Is that all you can tell me?"
2 He said, "That's the way it happened". I said, "About this
3 car, are you sure it was Manitoba license plates"? He said,
4 "Yes". So I said, "All right".
- 5 Q. Did he say anything at all about whether or not the men got
6 back into the car?
- 7 A. Yeh. He said that they got in this car and they drove away.
- 8 Q. Did -- Was there any reference to the men looking like priests
9 in the conversation?
- 10 A. No, not in that conversation. No, I never heard that until --
11 until the trial came up actually when I come to recall this
12 now. I never heard the word "priest" being used.
- 13 Q. Did Donald Marshall, Jr., make any inquiry of you about the
14 condition of Sandy?
- 15 A. No, none whatsoever.
- 16 Q. What did you do after you had that telephone -- Was there
17 anything else in the telephone conversation that you recall?
- 18 A. Yes, means I was Inspector with the Motor Carrier
19 Division of the Nova Scotia Government, when he mentioned
20 the car with the license plates it dawned on me that I would
21 call the R.C.M.P.
- 22 Q. Yes.
- 23 A. So I called the R.C.M.P. and I told them of my son being seriously
24 stabbed in Wentworth Park last night, and I asked them --
- 25 Q. Did they seem to know anything about it?

1 A. I don't think they did at that time.

2 Q. Were you talking to a person in the force or were you talking to
3 a secretary who answered the phone or?

4 A. Well, it was man. I don't know if it was a secretary.

5 Q. It was a man?

6 A. Yeh, it was a man.

7 Q. And this would be about what time in the morning?

8 A. This would be about -- I talked with Marshall between seven or
9 so. This would be about fifteen minutes later. Well, I'd say
10 about quarter after seven or twenty after seven in the morning.

11 Q. Yes.

12 A. And they stated to me that being as this incident took part --
13 took place in the city--in Wentworth Park which is in the
14 city, that they did not take on cases like this, that it was
15 handled by the City Police.

16 Q. Yes. Why did you phone the R.C.M.P.? What did you request of
17 them?

18 A. Pardon?

19 Q. Why did you phone them? What did you request of them?

20 A. Yeh, well, I'm coming to that now.

21 Q. I'm sorry.

22 A. So after I sat for a little while again I decided to call them
23 back.

24 Q. Yes.

25 A. Because I figured I was an Inspector on the Highway and part of

1 my job was staying at the scale house and the two scale
2 houses in Port Hawkesbury and in Amherst, Nova Scotia.

3 Q. Yes.

4 A. And as Motor Carrier Inspectors we had the same authority on
5 the highway as Mounted Police or police or whatnot, and I
6 figured that if I could contact some of my superiors or somebody
7 that they could possibly have a road block or something.

8 Q. Yes.

9 A. So anyhow I called the Mounted Police back and I said to them,
10 I said, "Look, my"-- I said, "About this incident in the park
11 last night, I'm Oscar Seale again, and I do not live in the
12 city, and my son lives here in Westmount with me and I would
13 like you people to take another look at this". Well the person
14 told me on the phone, "Mr. Seale, okay, we'll see what we can
15 do". So I did talk to him about, you know, my job, that I was
16 Inspector of the -- with the Motor Carrier Division and he
17 says, "Okay, we'll see what we can do". But then I sat down
18 and I -- It was so early in the morning I knew none of our
19 staff would come out for work until eight-thirty. I didn't --
20 I didn't get a hold of nobody to, you know -- to check about
21 this car that was described by Marshall to me.

22 Q. I'm sorry, I've missed this. Did you describe to the R.C.M.P.
23 the car that Marshall described to you?

24 A. I'm pretty sure. I can't quite recall the exact description
25 right now, but I'm sure I did when I talked with the R.C.M.P.

1 about it.

2 Q. Yes. Okay. Now during the reinvestigation in 1982, did you --
3 were you in touch with the R.C.M.P. to see if you could find
4 out what they were discovering and what was going on?

5 A. Well, how I got in touch with the R.C.M.P., it wasn't me,
6 it was my son. I don't know -- he had met them. The radio
7 stations and whatnot had at this time been blowing this thing
8 up like a soap opera. This was becoming unbearable for me
9 and my wife. We had wrote letters to, you know, various people
10 about it and seen if there wasn't a better way to conduct a
11 probe. But anyhow, my son met Wheaton and Carroll.

12 Q. This is which boy? This is --

13 A. This is my one, two -- This would be my third -- third son,
14 third boy.

15 Q. What is his name?

16 A. Howard.

17 Q. Yes.

18 A. And he said to them, he says, "Do you people know what you're
19 doing to my father and my mother and our family"? He said,
20 "The condition you've got us into--". And he says, "Why don't
21 you fellows get over there", he said, "and have a talk to my
22 father". "He should be the one that
23 you should be talking to and not letting things go like
24 they're going with this media". So this was I think just
25 about the next day they did come over and I questioned them

1 on the investigation and they didn't want to tell me nothing.

2 Q. Did you ask them how the media was getting its information?

3 A. I asked them nameless questions. I jotted down quite a bit
4 of questions, yeh. They didn't -- They weren't -- They just
5 were tight-lipped. All they would tell me, that maybe if they
6 found out -- if somebody else killed my son would I accept
7 it? I said, "Well, I'd have to know what you're talking about".
8 I asked them did they take statements from Ebsary. They said,
9 "No". I asked them various questions about did they go interview
10 Tom Christmas. I showed them a picture of Tom Christmas being
11 taken -- when Marshall was being taken in and under one part
12 of it says where he was charged with intimidating a witness
13 or something like this.

14 Q. Yeh.

15 A. And Mr. Carroll, I think, the words he said to me was he went
16 to see Tom Christmas and when he went up there everybody in
17 the house was drunk. So I asked him did he go back and he
18 said, "He didn't". I asked him did Mr. Wheaton go back and
19 he said he don't think he did.

20 Q. Was there information that was being released in the media at
21 this time concerning the reinvestigation?

22 A. Oh, yes. Yes, they were having flashes of catchers of --
23 of a knife not belonging to the Marshall family. New evidence
24 in Boston. I'd take anybody and -- I think I
25 can give you a scrapbook, three pages of it --

1 | Q. But the R.C.M.P. refused to disclose the name to you?

2 | A. Yes, I wanted to know also from them who was giving out this
3 | kind of information.

4 | Q. What did they say to that?

5 | A. They said it wasn't them. They said it wasn't their policy to
6 | give out nothing.

7 | Q. That's what they told you?

8 | A. Yeh.

9 | MR. PUGSLEY:

10 | Excuse me, My Lords.

11 | BY MR. PUGSLEY:

12 | Q. Do you recall which member of the force it was who said it was
13 | not their policy to give out information?

14 | A. I think it was Mr. Wheaton.

15 | MR. PUGSLEY:

16 | Thank you, Mr. Seale.

17 | MR. MURRAY:

18 | No questions on behalf of William Urquhart.

19 | MR. ELMAN:

20 | No questions.

21 | MR. D. PINK:

22 | Nothing, My Lord.

23 | BY MR. NICHOLAS:

24 | Q. Yes, Mr. Seale, I'm -- my name is Graydon Nicholas. I
25 | represent the Union of Nova Scotia Indians. And I was wondering,

1 in -- prior to this particular time you spoke with Mr. Donald
2 Marshall, Jr., had you contacted any Indian people in Membertou
3 prior to this?

4 A. Prior-- From the time I had spoke to Donald?

5 Q. Yes. Before that did you have any social relations with the
6 Indians in Membertou?

7 A. Oh, no, sir, never, nobody. I had spoke with Mr. Marshall
8 about -- about gyproc -- of taping -- Our gyproc -- You know,
9 I gyproced my house and he did the job of taping it.
10 That's how I come to know Mr. Marshall. I had met him.
11 He was working at a place --

12 MR. ROSS:

13 Perhaps the witness would indicate Mr. Marshall, Sr., or Jr., for
14 the record.

15 BY THE WITNESS:

16 A. Oh, this is Mr. Marshall, Sr.

17 BY MR. NICHOLAS:

18 Q. Yes.

19 A. I had met him and I had heard that he did some good work at
20 filling the cracks in gyprocs, so I asked him would he
21 undertake to do my home. I had -- We built a new home in
22 Westmount and he said he would. So he came over and looked
23 at it and he gave me a price and I told him, "Yes". I told
24 him this home was being built under the D.V.A., but me and
25 my sons had took the contract like to do it. We were doing it

1 on our own. And he gave me a price and I told him, I said,
2 "Look, this will take some time for you to get your money
3 from the D.V.A. because you have to do the work and then
4 submit the bills and this was the way the Government did things.
5 But I said, "In your case, I have some money, my own money",
6 I said, "and I know"; I said, "you're not a big contractor or
7 nothing like that, but I will pay you ahead of time, you know,
8 for the job". So with that he did so much of the work and I
9 certainly paid him. And at one of them times I had went to
10 the house -- Mr. Marshall himself didn't do too much. He had
11 a fellow by the name of Paul that was from the Truro Reserve or
12 somewhere in Truro anyhow because I had talked to him quite
13 frequently when Mr. Marshall wasn't there. But one day I went
14 there, there was Junior Marshall, he was there. Now I didn't
15 know Junior Marshall at the time. I only had known Mr. Marshall
16 from the conversation I just told you about, but I had took
17 my son with me, my oldest son John and I said to -- I seen this
18 young fellow standing by the fireplace. I had orders -- I
19 had a call from my office to go out to River Denys to do a job
20 down there, so I said to him, "Look, I won't be around but
21 here's five dollars". Which is -- It was a good dollar then.
22 And I says, "You can take it and buy yourself a lunch for
23 you and the young fellow there". I said, "He seems to be
24 a pretty shy looking fellow". So that was the end of that
25 and that was the only time I'd seen this boy until -- I seen

1 him also at the wake and in court. But another time -- I
2 don't know if I'd mentioned this to you, when Marshall did
3 get charged, (Donald, Jr.), his father called me and he told
4 me -- he said, "Mr. Seale", he said, "my son Junior has been
5 charged with your son's murder". Well, I said, "I hadn't
6 heard as yet", I said, "and I'm very sorry". Well, he said,
7 "What do you think I should do"? I said, "Mr. Marshall, what
8 I would do," I said, "I would get myself a good lawyer, a
9 good criminal lawyer". He said, "Do you know any"? And I --
10 Offhand I did say, "Yes, I think Mr. Rosenblum is a very good
11 criminal lawyer from what I hear". So he thanked me and that
12 was it.

13
14
15
16
17
18
19
20 *JMR*
21
22
23
24
25

1 Q. Now in the work that you were involved in as Inspector of
2 Motor Vehicles, did you have any contact with Indians?

3 A. Yes, yes, I did but this wasn't until -- until after my
4 son's death.

5 Q. Not prior to this then?

6 A. No.

7 Q. Now you've also indicated you were in the Service?

8 A. Right.

9 Q. You were in the Canadian Forces? You are -- you're a
10 veteran?

11 A. Yes, sir.

12 Q. And you were in the Service, the Canadian Service?

13 A. Yes, yes.

14 Q. Were there any Indians in the Service with you?

15 A. Yeh, I can recall one fellow from -- he was from Ontario.
16 And his -- his name was Peter's. And, in fact, myself and
17 him was -- became to be real personal friends. No -- I
18 can't say I ever met anybody any nicer than that boy.

19 Q. So in the school that your son attended are you aware if
20 also Indians attended the same school as him?

21 A. No, we lived -- like my wife stated, we lived in Whitney Pier
22 and in fact, I don't know of, in my time all the years that
23 I was around, of any Indian families being in that area
24 whatsoever or any Indian children going to school. I know
25 they didn't go in my day down there and I never heard none

1 of my own immediate family telling me anything about Indian
2 children in their school. Now there could have been the
3 odd one or so but I'm sure I would have known more about
4 Indian families.

5 Q. I see.

6 MR. NICHOLAS:

7 I have no further questions, My Lord.

8 BY MR. ROSS:

9 Q. I wouldn't tell you my name Mr. Seale; however, there are
10 a couple of questions that I would ask you. Now I take it
11 that in the early morning of the 29th of May, 1971, is when
12 you heard that your son was in the hospital?

13 A. Yes.

14 Q. Do you recall who you heard that from?

15 A. Who'd I hear it from?

16 Q. Yes?

17 A. Oh, yes, I -- I had went to bed early after I heard Sandy
18 ask his mother for the three dollars that she had put away
19 for him because he -- three other friends of his came to
20 the house and he wanted to go to the dance. I was laying
21 in bed and I could hear this. And she told him that she
22 didn't have his money. He must have put it in his room
23 somewhere and go look for it. So eventually he went up and
24 found his money in his room and away they went. And that
25 night I was asleep when the phone rang and my wife, she

1 answered the phone and she said, "It's for you". And it was
2 Mike MacDonald.

3 Q. Pardon me.

4 A. Mike MacDonald, known as "Red" Mike.

5 Q. Yes.

6 A. He was on the phone and he told me that I better come down to
7 the hospital right away as my son was stabbed and he thinks
8 it's pretty serious.

9 Q. I see. Now we just back track a bit. I'm going to pick from
10 there a little later. Perhaps you can give the Inquiry a
11 little bit of your own background. You went to school in
12 Sydney?

13 A. Right.

14 Q. And how far did you go in school?

15 A. I -- I got to grade ten and of course, my father had died when
16 I was seven and I was left with a mother and five sisters. And
17 at that time things were pretty tough and it was just getting
18 about exam time and I heard from a couple of good friends that
19 I had that they were working -- there was work to be got in
20 Ontario. So, of course, we decided to hit the rods in other
21 words and get to Ontario to see if we could get some of this
22 work. Which when we got there, there was no work, of course.
23 And we returned home.

24 Q. You returned home?

25 A. Yeh.

- 1 Q. And you got married when?
- 2 A. Oh, I --
- 3 Q. Remember your wife is in the audience?
- 4 A. Yeh, I think it was May the 5th of '48.
- 5 Q. In 1948?
- 6 A. Right.
- 7 Q. Yes, and let's come up very quickly to the mid-sixties. By
- 8 the mid-sixties there was you and your wife and how many
- 9 children?
- 10 A. Five.
- 11 Q. Five children. Did they all go to school?
- 12 A. Did they all go to school?
- 13 Q. Yes?
- 14 A. Yes.
- 15 Q. Did you have any problems with truancy officers and the like?
- 16 A. No, no.
- 17 Q. I see. And were any of the children working while they were
- 18 in school?
- 19 A. No.
- 20 Q. So if- for all intents and purposes, you were the bread-winner
- 21 and you commanded everything inside as far as the house was concerned?
- 22 A. That's right, sir.
- 23 Q. And I understand that you had a cottage some place out of
- 24 the Sydney area?
- 25 A. Right.

1 | Q. How far away was your cottage?

2 | A. Probably be roughly forty-five -- I'd say forty-five miles
3 | from -- right from Whitney Pier area.

4 | Q. Yes.

5 | A. Right to New Campbellton in Victoria County.

6 | Q. And you visited the cottage every summer?

7 | A. Oh, definitely. We would leave right after school and take
8 | our family and we would stay there. And the only reason would
9 | bring us mostly in, of course, we had to eat and when these
10 | boys of mine, which liked sport very much, they most -- the
11 | pools -- well, like Sandy and Johnny they had played in the
12 | Little League as it was started in them years. And I would
13 | drive them in. Wait for them. Take them back. And we would
14 | play, you know, ball out in the cottage and I would show
15 | them different things about, you know, baseball and whatnot.
16 | And especially they loved swimming and this was -- they were
17 | very, very strong swimmers. All of them, even my daughter
18 | was the same way. She was just as active because she was
19 | caught in between these boys and that made her something in
20 | the same category as them. She could play ball and swim.

21 | Q. So is it fair to say that you kept your family fairly well
22 | supervised?

23 | A. Right.

24 | Q. And did you know the friends of your children?

25 | A. Yeh, well, I knew some of the boys that Sandy would hang around

1 or with the oldest boys and them, you know. I would see them
2 coming and going; but I never did discuss hardly anything
3 with them because I had no reason, there was never nothing
4 that ever came up that I had to have conversation with them
5 about it.

6 Q. But you knew these young people who would be friends of your
7 children?

8 A. Oh, I knew them, yeh, I knew them.

9 Q. What about when you were out at the cottage? Did their friends
10 visit them at the cottage also?

11 A. Sure, they had different kind of friends out there too. There
12 were other people that had children of the same age, like
13 the Hamilton family and the family of the Hamilton's where
14 their father was the first one to take me at seven years
15 of -- that took me out in that area to camp and that's why
16 I went back. And this Hamilton family they were the ones
17 that, you know, the whole family of them grew up and they
18 married and they had children and their -- some of their
19 children was just about the same ages as my children.

20 Q. Sure.

21 A. And this -- this how they mingled and got along very well.

22 Q. And as far as your other children is concerned, let us
23 exclude Sandy for a minute. Did you have any difficulties
24 with your oldest son?

25 A. Oldest son, John?

1 Q. Yes?

2 A. Oh, no, none whatsoever.

3 Q. No problems with the police?

4 A. No, sir.

5 Q. No complaints from school teachers?

6 A. No, no.

7 Q. And then what about your other sons, any -- any problems with
8 the police?

9 A. No, no.

10 Q. Any unnecessary complaints from school?

11 A. No, no.

12 Q. Any complaints from neighbours or anybody in the community
13 as far as I mean hanging around and so on is concerned?

14 A. No, never.

15 Q. What about Sandy, did you have any complaints with respect to
16 him?

17 A. No, no. Sandy. I never had no complaints about Sandy whatso-
18 ever.

19 Q. Now tell me, Sandy, did he -- did he save money or did he
20 spend a lot of money? Could you tell us about his habits
21 as far as money was concerned?

22 A. No, Sandy wasn't a boy that cared too much about having money.
23 I had some various friends in the City, especially some of
24 the elderly men from Barbados and as they got older, they
25 were unable to -- they were batching and they were unable

1 to bring in their coal or wood or cut their slabs and whatnot
2 like that. And I knew -- like, in the case of one who was
3 a very good friend of mine, a Mr. Hadley, and I -- when he
4 would get these slabs in the yard, I would say to Sandy,
5 "Look, now," I said, "I want you to go down and give Mr.
6 Hadley a hand." He would go down, cut the wood, bring in
7 it and store it away in his barn for him and whatnot. And
8 if Mr. Hadley tried to give him money, and I didn't tell
9 Sandy not to take it, Sandy would never take a cent because
10 Mr. Hadley would always ask -- say to me, "Look I would like you
11 to give this so-and-so to Sandy -- well, he don't need --
12 I said, "You tried to give it." He said, "He won't take
13 nothing from me." So I said, "Well, that's the way Sandy
14 is." And he -- very, very helpful among things like that
15 and even the same way with his mother-in-law. No matter
16 -- he couldn't get his hand around her fast enough to help
17 her because she was a cripple and she needed lots of help.
18 And he'd be number one to help that lady with anything that
19 she wanted done.

20 Q. And then coming up quickly to the Friday evening. The Friday
21 evening, May the 28th. Now when was the last time that you
22 saw Sandy prior to seeing him in the hospital?

23 A. I had seen him that evening.

24 Q. Did he have dinner with you?

25 A. Pardon.

1 Q. Did he have dinner with you -- supper?

2 A. Oh, yes, we all ate -- we always ate supper. We never in
3 our home -- there was no such a thing as you could run and
4 pick up something over here and sit down in a chair here or
5 the chesterfield and eat it. Everybody sat at that table
6 and ate together. And that was it. There was nothing
7 different than that. So we always and the only time Sandy
8 I think ever missed a supper unless he was playing hockey
9 or late -- was that night that he never came home.

10 Q. I see. So you saw Sandy earlier that evening. Am I to
11 understand that he had his supper with you on that Friday
12 night before leaving?

13 A. Right.

14 Q. And what happened after supper?

15 A. Well, after supper, Sandy went to the basement. I had -- I
16 had an old pool table down there and the youngest boy then
17 would be quite small. And Sandy could play pool pretty good.
18 He used to stay home most of the time. He used to practice
19 on that table. I guess he knew every little hook and bump
20 into it, because he had that little fellow, the youngest boy,
21 very, very, very sharp playing pool. In fact, I couldn't
22 even beat him. And some of my friends that would come, I
23 would say if you want to shoot a game of pool and get whipped,
24 try it with the younger fellow; don't pick on Sandy, try that
25 fellow and he would whip most of them. But Sandy -- that was

1 | where I last seen Sandy was downstairs.

2 | Q. So he had gone downstairs --

3 | A. Yes.

4 | Q. -- and he was downstairs playing pool?

5 | A. That's right.

6 | Q. And as far as going to this dance was concerned, do you know
7 | how it happened that Sandy decided to go to this dance?

8 | A. Yes. He didn't -- he didn't decide to go to the dance that
9 | night whatsoever. But three fellows from the Pier came. They
10 | came over and asked Sandy to go out with them. In fact, he was
11 | playing pool with a MacDonald boy, a Noseworthy boy that was
12 | in the house at the time; a MacDonald boy and a Dixon boy --
13 | I knew there was -- I knew the three of them were anyhow
14 | because I had spoken with them. And he didn't intend to go
15 | to the dance and when these three boys came from the Pier,
16 | there was a Bishop boy as I learned later, a Maxwell boy
17 | and a Lucas boy, and when he hollered upstairs for his mother
18 | for the money and he finally found the money in his room,
19 | he went with them to the dance. They all left together but
20 | I later learned that the MacDonald boy did not go to that
21 | dance. His parents said it was getting too late and she
22 | didn't think he should go, so she made him stay home.

23 | Q. So he left and he went to the dance?

24 | A. Right.

25 | Q. From the record so far it appears that he was quite well-dressed?

1 A. Right.

2 Q. He had on as I recall a brown corduroy coat?

3 A. Right.

4 Q. Under that a sweater?

5 A. Right.

6 Q. An undershirt?

7 A. Undershirt.

8 Q. And did he have on jeans or slacks?

9 A. Blue -- blue jeans.

10 Q. Blue jeans.

11 A. And brown boots.

12 Q. Brown boots, yes. And that's how he left and he went to the
13 dance. And he had enough money, I take it, to go to the
14 dance, have a good time and enough to get a bus back home?

15 A. Right, right, he had --

16 Q. And as far as coming back home is concerned, was there any
17 time that Sandy had to be home?

18 A. Oh, yes. Oh, yes. They had a curfew. Every night they
19 were allowed out until nine o'clock most evenings, you know,
20 after they did their homework. But they were only allowed
21 out until twelve o'clock on Friday night when there was a
22 dance. And that curfew was there and they always obeyed
23 it. I never had to check them on it.

24 Q. I see. So then how was Sandy supposed to get home from the
25 dance as far as you knew?

- 1 | A. He -- he'd have to catch that last -- that bus, the twelve
2 | o'clock bus.
- 3 | Q. And the twelve o'clock bus would leave from where, do you know?
- 4 | A. It would leave from the Bentinck Street station in Sydney.
- 5 | Q. And then travel along the Esplanade into King?
- 6 | A. It would come.-- that's right. It would come along, go down
7 | I guess, to the Esplanade and then along King, right out to
8 | our place.
- 9 | Q. And as far as you know was there a spot where Sandy would board
10 | the bus from time to time when he was taking that last bus?
- 11 | A. Yes, because my daughter had often told me that they would
12 | go down to this Atlantic Springs around that area right there
13 | where Atlantic Springs is on King's Road, to catch this bus.
- 14 | Q. Almost in the -- almost down near King and Byng that general
15 | area?
- 16 | A. Yes, yes, right, right in that same area there.
- 17 | Q. I see, so he would catch that bus on King Street approximately
18 | -- shortly after midnight, I take it?
- 19 | A. Yes, that's right, yes.
- 20 | Q. Now -- so then I understand it you did not see him again until
21 | you saw him in the hospital?
- 22 | A. Right.
- 23 | Q. And during the time that you were in the hospital with him,
24 | were any police officers with you?
- 25 | A. Yes, I did notice that Mike MacDonald who had called me, he met

1 me when I got there and we -- we did talk. Mike MacDonald
2 was around that hospital for a considerable time. I would
3 say until very late in the night, in fact, I'm sure it was
4 three -- three-thirty, Mike MacDonald was still around that
5 -- that hospital.

6 Q. What about Donald Marshall, did you see him at the hospital,
7 Donald Marshall, Junior?

8 A. No, no.

9 Q. Did anybody, did the police officers indicate to you that
10 Donald Marshall, Junior, was also wounded?

11 A. No.

12 Q. I see, so you stayed at the hospital and Mike MacDonald was
13 with you and I take it that you all were in the same area
14 where Sandy was at one time?

15 A. No, no, no, no. When I got to the hospital, Sandy was already
16 -- as fast as we could get in there, they asked us to sign
17 some papers.

18 Q. Sure, to sign the usual consent forms, yes?

19 A. Yeh, yeh.

20 Q. Yes.

21 A. Which we did. And then they just took us and sat us around
22 waiting.

23 Q. What I'm interested in, Mr. Seale, I want to know whether or
24 not at any time Sandy was asked by the doctors, by the nurses,
25 by the police, by anybody if he could identify who you were?

1 A. Yes, oh, yes.

2 Q. And did he identify who you were?

3 A. Yes, yes.

4 Q. Now who was -- was a police officer there at that time?

5 A. No, I don't think they would let a police officer in that
6 room because I'm sure it was only me and my wife because my
7 wife --

8 Q. Any medical --

9 A. -- had just about passed out and she demanded that she see
10 Sandy.

11 Q. Yes.

12 A. And there were no way that they were going to stop her from
13 not seeing him because Doctor Naqvi had told us about this
14 dirty weapon, this long dirty knife that must have been used
15 on Sandy.

16 Q. Yes.

17 A. And kept repeating it and my wife said to him, "Look, my
18 husband's not interested in this dirty knife or this long
19 knife, we want to know the condition of our son". So I
20 guess, he instructed the people that would be in charge, I
21 guess, that to let us go and see him.

22 Q. What I'm -- what I'm trying to get at, I want to find out
23 perhaps I'll just ask you the direct question. Somebody asked
24 Sandy whether or not he recognized you and Mrs. Seale as his
25 father and mother?

- 1 | A. Right.
- 2 | Q. And he acknowledged in the affirmative that he did?
- 3 | A. Right.
- 4 | Q. Yes; did anybody ask Sandy if he knew who stabbed him?
- 5 | A. No, no.
- 6 | Q. I see. But he was sufficiently alert to respond to the fact
7 | that you were his father and Mrs. Seale his mother?
- 8 | A. Only -- only by the knod of his head. The doctor said, "If
9 | you recognize this is your father, if you recognize him,
10 | would you knod your head?" Which he did.
- 11 | Q. I see.
- 12 | A. And likewise for my wife.
- 13 | Q. Sure, sure.
- 14 | A. And all I could say --
- 15 | Q. But then I take it that after that things moved pretty
16 | quickly. Now I take it you got the news of your son's death
17 | early Saturday evening?
- 18 | A. Friday night, so, yes, yes.
- 19 | Q. Yes.
- 20 | A. Yes, that was --
- 21 | Q. And after the news of the death, were you in constant contact
22 | with the police during that week up until the time of the
23 | funeral?
- 24 | A. Me?
- 25 | Q. Yes?

- 1 A. I didn't know where I was. I couldn't believe that such a
2 thing could happen. I was in contact with nobody.
- 3 Q. Precisely. I see, so you weren't contacting the police and
4 they weren't contacting you?
- 5 A. No.
- 6 Q. I see, and then after that I take it the next thing happened
7 was that Sandy was buried and sometime shortly thereafter
8 there was a Preliminary Inquiry?
- 9 A. Right.
- 10 Q. Did you attend the Preliminary Inquiry?
- 11 A. No, no. In fact, I guess I was, I don't know -- I just --
12 I just hadn't -- I was too shook -- I didn't even know about
13 this Preliminary Inquiry, in fact. The way things went at
14 that time.
- 15 Q. But then, I take it, you attended the trial in November?
- 16 A. Right, yes.
- 17 Q. But after the trial and Marshall had been convicted, up until
18 that time, had anybody suggested to you that your son, Sandy,
19 was involved in some kind of robbery?
- 20 A. Oh, definitely not.
- 21 Q. And shortly thereafter apparently MacNeil went to the police
22 and there was this suggestion of a robbery, were you made
23 aware of these allegations?
- 24 A. No.
- 25 Q. Were you made aware of any contact by anybody with the police

1 | up to 1981?

2 | A. No, nobody whatsoever.

3 | Q. So in fact where there's an R. C. M. P. report of a
4 | re-investigation and certain conclusions that they arrived
5 | at, you didn't know anything about this?

6 | A. No, not one thing whatsoever.

7 | Q. So I take it then that the next thing that you understood was
8 | that there was going to be a re-investigation and that was in
9 | 1982, was it?

10 | A. Right.

11 | Q. And was it around that time that you first heard the allegation
12 | that your son might have been involved in a robbery?

13 | A. Right, right.

14 | Q. What was your reaction to that?

15 | A. Well, I couldn't believe it. Like anything else after knowing
16 | -- after raising a boy and somebody to tell me, in fact, it
17 | was the Crown Prosecutor, he called me over and when he showed
18 | me a statement that was signed by Marshall and Carroll... And
19 | I read the statement. And I, of course, I questioned him on
20 | the statement. And I just couldn't believe that anybody would
21 | believe such a statement as this myself. The way that -- how
22 | I read it, a fellow that was in jail for eleven years and didn't
23 | say nothing, didn't contact nobody whatsoever, or didn't do
24 | nothing about it and if so if he may have come to us or
25 | anything, we might have -- we might have had taken another

1 look at all of this ourselves too to find out what was going
2 on. But nobody -- we had no contact with nobody until I
3 read that statement signed by Donald Marshall and Corporal
4 Carroll.

5 Q. And then, sir, did you on your own try to locate as many
6 of Sandy's friends as you could to see whether or not there
7 was -- you could find anything to connect Sandy with bumming
8 money or robberies?

9 A. Yes, I talked to a couple of the boys and the most they'd
10 say -- they said to me that knew Sandy, "Well, if we were
11 short a quarter or a dime or what -- whatever it was," because
12 there was no such a thing as dollar bills floating around
13 back then that fluent. But they would borrow from each other
14 or say, "Look, John Joe here hasn't got enough, how about
15 a quarter to help bring his fare up to get him into a dance
16 or something like that."

17 Q. But that was really among their group of friends?

18 A. Yeh.

19 Q. What about asking people that they did not know for money?

20 A. No, not -- I never heard tell of it and none of my friends
21 ever heard tell of it.

22 Q. And you've checked it?

23 A. Why yes.

24 Q. And have you come up with anything to date about Sandy asking
25 other people, other than his immediate friends for something

1 | like a dime, a quarter something of that nature?

2 | A. I never heard nothing -- none of them ever said that Sandy
3 | ever was out bumming from anybody. Like he had no rights
4 | to be or no reason to.

5 | Q. And then I take it that it was after the re-investigation in
6 | 1982 that you started having certain -- that you started
7 | being dissatisfied with certain things?

8 | A. That's right.

9 | Q. And up until 1982 there was no reason because, okay, your
10 | son had an appropriate funeral and his reputation remained
11 | in tact?

12 | A. That's right.

13 | Q. And as far as these attacks upon the reputation of your son
14 | is concerned, have you been able to substantiate any basis
15 | for any of these attacks to date?

16 | A. I just don't follow.

17 | Q. Have you been able -- have you -- are you satisfied that
18 | there was any basis for the attacks upon your son's reputation?

19 | A. No, I could see no basis whatsoever.

20 | Q. And when you spoke -- when you spoke with John Pratico around
21 | Easter of 1982, could you perhaps just advise me on the
22 | atmosphere? How was it that you were speaking with him?
23 | Was he relaxed? Did he appear to be scared of you? Were
24 | there any concerns? What can you tell us?

25 | A. No, John seemed to be in very, very good shape, in fact. And

1 he talked quite sensible and great. There was -- there was
2 no such a thing as no fear of nothing or fear of me or
3 nothing like that because he -- well, if he was fear of
4 me he took a wrong place to go and take a room as a border,
5 let's look at it that way.

6 Q. That's true, at your mother-in-law's. As far as that primary --
7 that primary statement in the Terms of Reference, the
8 investigation of the death of Sandy Seale, is there anything
9 specifically you would like this Inquiry to look at with
10 respect to the circumstances of the investigation of the
11 death of Sandy Seale? Is there anything on your mind within
12 that regard?

13 A. Well, there were lots of things on my mind that I wasn't quite
14 satisfied with. The first thing that kind of had me even
15 go to a lawyers when -- when Donald Marshall -- he signed
16 a statement -- the R. C. M. P. saying that he met Sandy and
17 they went through all this conversation with these two men
18 in the Park. They pulled this -- they asked them to go
19 looking for liquor and to various things, the statement that
20 I had, you know, read and all this. And of course, he
21 first denied this in the Supreme Court Hearings I went to.

22 Q. The Reference in Halifax?

23 A. Yeh.

24 Q. Yes.

25 A. And, of course, after --

1 MR. RUBY:

2 Excuse me, My Lord, I wonder if I could interrupt for just for a
3 moment. I wonder whether this is really appropriate. If there
4 are things which the Commission ought to be looking at concerning
5 the investigation of Sandy Seale's death, then surely it's for
6 counsel to bring that out; but not for a witness to give his
7 views directly without any expertise and training.

8 MR. ROSS:

9 I could respond to Mr. Ruby's query, My Lord.

10 MR. CHAIRMAN:

11 Pardon.

12 MR. ROSS:

13 I could respond to Mr. Ruby's concerns.

14 MR. CHAIRMAN:

15 Well, just let him finish.

16 MR. ROSS:

17 Sure.

18 MR. RUBY:

19 Mr. Seale has very competent counsel representing him here and
20 I certainly think any aspect of the investigation which the officers
21 or the judiciary failed to carry out appropriately in the due
22 course of this Hearing, that matter would be brought to your
23 attention in the ordinary and proper way. But Mr. Seale should not
24 be placed in the invidious position of having his own views of
25 the inadequacy of a particular thing that are outside his own

1 | personal experience since he didn't see -- since he wasn't
2 | involved in or things that didn't involved him, placing his
3 | views in opposition to those of others who were active. I
4 | think it's a matter for argument again, perhaps. It's
5 | certainly a matter that comes up as it comes along but I
6 | really question whether it's appropriate Mr. Seale be placed
7 | in an awkward position.
8 |
9 |
10 |
11 |
12 |
13 |
14 |
15 |
16 |
17 |
18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |

1 MR. ROSS:

2 My view, My Lord, is that this witness has standing. He has
3 constantly expressed certain concerns as far as the reputation
4 of his son is concerned and as I read the terms of reference, one
5 of the things that this Commission is going to be addressing is
6 the circumstances of the death of his son. He is here and in
7 that narrow context I am asking him on the record if there is
8 anything with regard to the circumstances of the death of his
9 son that he would like the Commission to look further at and I
10 think it's a proper and a legitimate question. If the answer is
11 nothing, he can say nothing. If he can answer it specifically, I
12 guess he will and if because of the fact that he's not a lawyer and
13 he answers it in a rambling fashion but expressing his view, it
14 is my submission that that view ought to be entertained by the
15 Commission.

16 MR. CHAIRMAN:

17 Within our terms of reference I think it is appropriate for Mr.
18 Seale to indicate to us if there are any areas that he feels we
19 should examine as they come within our terms of reference. And
20 clearly if there are any areas that come within our terms of
21 reference that should be examined, we will so -- we will do so.
22 What I think--what I would ask Mr. Seale is when -- and I appreciate
23 the difficulty in separating the -- that area of concern from
24 giving evidence that may be -- we haven't enforced the hearsay rule.
25 We're way beyond it. I would ask Mr. Seale if he would, and this

1 | may be difficult for you, sir, to indicate to us rather precisely
2 | the -- any areas that you would like us to look at that we haven't
3 | looked at as yet, you know our terms of reference, and we will
4 | take them into account.

5 | MR. ROSS:

6 | Thank you, My Lord.

7 | BY MR. ROSS:

8 | Q. Mr. Seale, perhaps what I will do is, with the indulgence of
9 | the Commission, I'll try to set the framework for you and
10 | I'll just try to point out to you that as far as the matters
11 | of evidence, inconsistent statements and so on, are concerned
12 | these are already before the Commission and these when looked
13 | at the Commission will have a good understanding of what weight
14 | to give to which statement but as far as the circumstances
15 | of the death, not what Marshall wrote in 1981 or '82 or
16 | any time, the circumstances of the death; if it is that you
17 | believe that there is something to be looked at that's not
18 | yet looked at, this is what I am asking you to assist us
19 | in identifying.

20 | A. Well, maybe to simplify it, I think myself, and like I said,
21 | we are always going to be the victims of this senseless
22 | murder, that the powers to be should make sure that no other
23 | parent will have to go through what myself, my wife and my
24 | family went through with this investigation. I think that
25 | they should have; the police who were involved and the crown

1 prosecutors and everybody should at least come to us first
2 and let us know about these things and explain it to us. We
3 had no newspapers or no radio stations to get up and broadcast
4 about and we were the parents of this boy and instead of them
5 coming to us they deliberately, as what I can see because
6 anybody -- and I can prove it with the -- cause I saved
7 every clipping -- they deliberately set this out like a soap
8 opera program and I am sure, I'm more than sure, that if Ebsary
9 had have been tried at any other place but the City of
10 Sydney they could never have convicted him of my son's murder.

11 Q. I think you've gone a little further than I expected you
12 to go, Mr. Seale, but as far as the specifics, the circumstances
13 of the investigation, we know that Sandy was at the dance.
14 Do you agree with that?

15 A. Right.

16 Q. We know that Sandy was on his way from the dance and according
17 to the -- You had a oppportunity to read the statement of
18 Keith Beaver?

19 A. Yes, I did.

20 Q. And Keith Beaver puts Sandy alive around quarter to twelve?

21 A. Right.

22 Q. Yes. And also the statement of Mattson and the evidence of
23 Mattson who puts him making a telephone call sometime around
24 ten minutes to twelve?

25 A. That's right.

1 Q. So there is a five minute gap that is left. Would you
2 like any further looking by the Commission into that five
3 minute gap?

4 MR. MacDONALD:

5 He's getting to the argument, My Lord.

6 I'm very sensitive about getting up. It's not a very pleasant
7 thing to do but surely my friend can direct himself to asking
8 questions as opposed to putting his argument forward at this time.
9 All the things that he has just said are before you and all the
10 witnesses that he names have either been called or their statements
11 are in before you and they can't add anything to it or they would
12 have been called so I would just ask you to direct my friend to
13 save his argument for the appropriate time.

14 MR. ROSS:

15 Well, with respect, My Lord, if I might -- may respond first
16 to Mr. MacDonald.

17 MR. RUBY:

18 You may want to respond to both of us.

19 MR. ROSS:

20 No, I can't handle both of you at the same time. Sit down Ruby.

21 MR. CHAIRMAN:

22 We dealt with this earlier, Mr. Ross, and this is not the time
23 for argument clearly and that last question was extremely argumentative

24 MR. ROSS:

25 Well, My Lord --

1 MR. CHAIRMAN:

2 And I go back to my ruling that if there are any areas that Mr.
3 Seale feels that within the terms of reference of this Commission
4 that should be looked at that haven't been looked at yet and
5 others that will be looked at, you know, we've got a long road
6 ahead of us yet, Mr. Seale, before we hear all of the testimony
7 that's going to be given, then we are more than happy to hear
8 from him; but I think it would be unfair to Mr. Seale as -- at --
9 to expect him to do our job and namely that is to assess the
10 sworn evidence that is before us to date, evidence that's been
11 subjected to cross-examination by his counsel and all other counsel
12 of interest and evidences that will come so I go back to my earlier
13 ruling. If Mr. Seale has any other area that he wishes to mention,
14 I've made a note of the last one.

15 BY MR. CHAIRMAN:

16 Q. That probably falls, Mr. Seale, into the category of
17 recommendations that you would like to see come from this
18 Commission, to quote your words, to try and, if possible, limit
19 that kind of --

20 A. That's right. Publicity.

21 Q. -- publicity that you went through in 1982?

22 A. That's right.

23 Q. And I take it from your evidence you -- you're not faulting
24 the fact that there was a second or a re-investigation?

25 A. Oh, no.

OSCAR SEALE, by Mr. Ross

1 Q. Your complaint is that you--

2 A. The way it was conducted.

3 Q. -- and your wife were not told prior to the re-investigation
4 commencing, that this was going to happen and you would have
5 been ready then to cope with the --

6 A. Right.

7 Q. -- probably inevitable publicity that flows from that kind
8 of re-investigation. That's my understanding of what you've
9 said; my interpretation. Is that correct?

10 A. That's right.

11 MR. ROSS:

12 Am I expected to respond to Mr. MacDonald's --

13 MR. CHAIRMAN:

14 You can respond but I --

15 MR. ROSS:

16 Well, My Lord, perhaps I'll just ask that with this witness I'm
17 seeking indulgence of the Commission because I have worked with
18 this person, this person who has standing, for a long time. I
19 think I have a good understanding of some of his concerns. I would
20 not like after this Commission has filed this report that he'll still
21 have questions. I am narrowing in --

22 MR. CHAIRMAN:

23 Anyway carry on.

24 MR. ROSS:

25 I am narrowing in to the one area left in which my understanding is

1 | that he might still have some concerns and if this forum --

2 | MR. CHAIRMAN:

3 | But, Mr. Ross, put it to him. The problem --

4 | MR. ROSS:

5 | Well, that's exactly what I was trying to do, My Lord. I'm not
6 | going to be argumentative.

7 | MR. CHAIRMAN:

8 | You were asking the question, then answering it and in effect saying
9 | to Mr. Seale, do you concur. Simply put the question to Mr. Seale.
10 | If there are any other areas of investigation on -- particularly
11 | arising as I understand it from you, you're concerned about the
12 | events surrounding the death of Sandy Seale. Are there any other
13 | areas that this witness would like us to examine, if to allay
14 | your fears on -- or your concerns that you just articulated. If
15 | at the end of our hearings any counsel feels that within the
16 | terms of reference of this Commission there is an area that we
17 | have not canvassed counsel have an absolute right to raise it and
18 | that will eliminate and foreclose the possibility of anyone coming
19 | back after we've filed our reports saying you didn't deal with
20 | this. At least you brought it to our attention. We may conclude
21 | that that's an area that we're -- that we won't be dealing with but
22 | at least we know. So I direct you again, would you put the question
23 | to the witness and --

24 | MR. ROSS:

25 | I'll will put the question --

OSCAR SEALE, by Mr. Ross

1 MR. CHAIRMAN:

2 -- let Mr. Seale answer it?

3 MR. ROSS:

4 Sure.

5 MR. CHAIRMAN:

6 And we've been and intend to be most indulgent with this -- with
7 Mr. Seale and I think all counsel have been this morning.

8 MR. ROSS:

9 Thank you very kindly, Mr. Lord.

10 BY MR. ROSS:

11 Q. Mr. Seale, between the time of your son getting on to the
12 -- getting on to Argyle Street from George, as you understand
13 it, and the time of the report that he had been stabbed,
14 is there anything in that time gap which in your view requires
15 further investigation?

16 A. Well, I had not seen the names of Keith Beaver, Alana Dixon,
17 and Karen MacDonald who I understand -- I read a report (shown
18 to me by Mr. Horne) of them three persons and my son Sandy
19 left from the dance and when they got to the park -- before
20 they got to the park Keith Beaver asked him about, would he
21 like to come up to his home? Sandy responded that he couldn't
22 go because he had a curfew and he had to catch that bus. So
23 he seen -- the last he seen was Sandy cutting and going through
24 the park heading towards Kings Street and there was also
25 statements, I understand, from Karen MacDonald and Alana Dixon

OSCAR SEALE, by Mr. Ross

1 to verify this.

2 BY MR. CHAIRMAN:

3 Q. Yeh, I see. What you're saying, Mr. Seale, is that you would
4 like Commission Counsel to locate these witnesses and see
5 what evidence they have that's relevant to the Inquiry?

6 MR. ROSS:

7 In that regard, My Lord, there's a statement from Alana Dixon in
8 Volume 16, page 24 and in the same volume, Volume 16 page 15
9 there is a short statement which is reflective of any interview
10 with Keith Beaver and as far as these statements are concerned
11 there is just a slight inconsistency.

12 COMMISSIONER POITRAS:

13 Who is the third witness? There's a third witness too, wasn't
14 there?

15 COMMISSIONER EVANS:

16 Mr. Ross, are you asking that counsel, Commission Counsel, interview
17 these witnesses and produce them here? Is that what you wish?

18 MR. ROSS:

19 My Lord, my understanding is that Commission Counsel has located
20 and interviewed Keith Beaver and my further understanding is that
21 Keith Beaver has indicated that he really can not add anything
22 to this statement that is already here. That is my understanding
23 and this I have communicated to Mr. Seale.

24 MR. CHAIRMAN:

25 Well, all right. Supposing -- Well, Mr. MacDonald you were going to --

1 MR. MacDONALD:

2 I was just going to say that, My Lord, that at the request of
3 my friend we had interviewed Mr. Beaver before but we reinterviewed
4 him at the request of -- at least the investigators have and
5 I believe the details of that interview were given to Mr. Ross.
6 Mr. Beaver tells us he can't add anything to what his statement
7 says. His statement is in. We didn't see any reason to bring
8 him here to say that but we're quite prepared to do it. I have --
9 I felt that was the way I left it with my friend. If you want
10 him called, given what we've told you, we're certainly prepared to
11 do it. Miss Dixon is in Alberta somewhere. We've not be able
12 to track her down but we do know that she's somewhere in Alberta.
13 And I'm not aware of this other, MacDonald, whether our investigators
14 spoke to her or not. I don't know. But my friend was asked and
15 has given us a list -- a long fairly lengthy list of people to
16 have interviewed and that's been done and the results have been
17 given to my friend. I would have thought that if he wanted any
18 other witnesses called -- we've been asking in our weekly meetings,
19 do you want anybody else called?

20 MR. ROSS:

21 In that regard, I've consistently answered yes, Keith Beaver.

22 MR. MacDONALD:

23 Well, I suspect, My Lord, that is not the case.

24 MR. ROSS:

25 Don't put -- Don't put --

OSCAR SEALE, by Mr. Ross

1 | MR. MacDONALD:

2 | Anyway, I don't want to argue about it.

3 | COMMISSIONER EVANS:

4 | Let's not argue about it. If we can get Keith Beaver, we'll call
5 | him.

6 | MR. MacDONALD:

7 | I'll call Mr. Beaver. I'll try and get him down tomorrow, My
8 | Lord, if --

9 | MR. CHAIRMAN:

10 | But I don't want a repetition --

11 | MR. ROSS:

12 | That will solve the problem, thank you, My Lord.

13 | MR. CHAIRMAN:

14 | No, it won't solve the problem. Just a minute now. There's been
15 | weekly meetings of counsel and one of the purposes of the weekly
16 | meetings, my understanding is, is so counsel can sort out between
17 | them and indicate to counsel to the Commission any witnesses who they
18 | feel should be called or any evidence that they feel that counsel
19 | should instruct the Commissions investigators to go looking for.
20 | When that evidence, if it's available, is presented to the -- to
21 | the lawyer who asks for it, then the lawyer has to do -- can examine
22 | it and then discuss with Commission counsel whether or not in his
23 | view the -- anything can be added to what's in the statement.
24 | If the conclusion is no, well, then obviously you're not going to
25 | waste your time and the time of the Commission in calling them.

OSCAR SEALE, by Mr. Ross

1 Now, I don't want this -- a repetition of what's just occurred
2 where accusations are made as to what transpired at counsel
3 meetings. We're not there and I'm sure that if any counsel
4 insists upon a witness being called, that he will be called and
5 if any counsel at a meeting insists publically upon a particular
6 witness being called, then all counsel present will here him. Ask.

7 MR. ROSS:

8 Thank you kindly, My Lord.

9 BY MR. ROSS:

10 Q. So Mr. Seale, would that be the extent of your concerns?

11 A. Yes, that would be one concern because apparently to me
12 that means that he was the last person or them persons to see
13 my son alive.

14 Q. Apart from what happened, where it had happened.

15 A. That's right.

16 Q. And that will be the end of your concerns, Mr. Seale?

17 A. Well, I'm pretty sure it would be.

18 Q. Sure. Thank you very kindly.

19 BY COMMISSIONER POITRAS:

20 Q. Mr. Seale, we have Keith Beaver, Alana Dixon -- who was
21 the other?

22 A. Karen MacDonald.

23 Q. Karen MacDonald. Thank you.

24 MR. RUBY:

25 I don't know if I should rise but I think I must. After I sat down,
Mr. Pugsley raised some new matters that are important to my client.

OSCAR SEALE, by Mr. Ruby

1 I wonder if I might have leave to ask questions concerning them.
2 I did not have a chance since they were raised after I was
3 through.

4 COMMISSIONER EVANS:

5 What areas?

6 MR. RUBY:

7 Three areas. First of all the conversation the witness had with
8 my client, Mr. Marshall, in 1971, and coming after the death of his
9 son. The second, the R.C.M.P. that he contacted in 1971, I want
10 to know who that was in particular. I didn't get that in the
11 evidence. And thirdly, with regard to the 1982 investigation that he
12 was critical of both in response to Mr. Pugsley's questions and
13 Mr. Ross' questions, I want to ask him some questions about that.
14 None of those matters arose prior to my turn --

15 THE CHAIRMAN:

16 The second one, by the understanding I got from Mr. Seale's response
17 was that he didn't know who the R.C.M.P. person was because he
18 said all he knew it was a man.

19 MR. RUBY:

20 I'm trying to figure out what office he was in, what day --

21 MR. CHAIRMAN:

22 All right. Okay. Go ahead. That's fair. Yes.

23 MR. RUBY:

24 Thank you.

25 BY MR. RUBY:

Q. You've described, Mr. Seale, the conversation with Donald

- 1 Marshall, Junior, and yourself.
- 2 A. Yes.
- 3 Q. I take it that you took no notes of that conversation. Is
4 that correct?
- 5 A. That's right.
- 6 Q. So you're recalling it now from memory from many, many years
7 ago.
- 8 A. Right.
- 9 Q. And I take it your memory is a normal memory in that after the
10 passage of that length of time, you're not able to tell us the
11 exact words used.
- 12 A. The exact words I used?
- 13 Q. Or that he used.
- 14 A. To talk to him?
- 15 Q. Yes.
- 16 A. Oh, I only asked him simple -- simple words as: was he with my
17 son that night in the park and he said he was. And I asked
18 him what happened.
- 19 Q. Okay, you asked him what happened as best you can recollect?
- 20 A. Yeh.
- 21 Q. And did you say to him, "And by the way, Mr. Marshall, I want to
22 know only what you yourself personally saw. I don't want to
23 know what you gleaned from others of what happened."?
- 24 A. Oh, no, I never --
- 25 Q. You didn't say that?

1 | A. No.

2 | Q. Are you familiar with what John Pratico was saying at around
3 | that time, as exemplified by the statement in Volume 16, page
4 | 22, May 30th, 1971. Did you ever see that statement?

5 | A. Did I ever see this statement? I have both pairs of glasses
6 | on me.

7 | Q. Take your time. This is a statement given apparently by John
8 | Pratico to the police on May 30th, 1971, at six p.m. Take
9 | a moment to read it. Ignore my handwriting on it.

10 | A. No, I never seen this statement whatsoever.

11 | MR. ROSS:

12 | Can't you give him a copy without your handwriting?

13 | MR. RUBY:

14 | He can't read my handwriting.

15 | BY THE WITNESS:

16 | A. I never seen -- this was -- This was what John Pratico told me.

17 | BY MR. RUBY:

18 | Q. I know that. Mr. Pratico has told a number of different stories
19 | at different times and I think you'll appreciate that. But you
20 | do understand that at around that time, he was saying in the
21 | middle of the large paragraph:

22 | I was over at the court house when I heard a
23 | scream. I looked. I seen two fellows running
24 | from the direction of the screaming. They
25 | jumped into a white Volkswagen, blue license
and white number on it.

Now he is telling people that.

OSCAR SEALE, by Mr. Ruby

1 MR. PUGSLEY:

2 Well, if I may, My Lord, --

3 BY MR. RUBY:

4 Q. -- at that time.

5 MR. PUGSLEY:

6 I hesitate to interrupt my friend but the evidence given by
7 Rudolph Poirier is that on the Saturday, the day and a half before
8 his statement was given by Pratico on the Sunday, he, Poirier,
9 heard Donald Marshall tell Pratico and Poirier the story of the
10 white Volkswagen.

11 MR. RUBY:

12 Well, my friend is arguing the case, My Lord, but if you recall
13 the evidence of Poirier, he said he did not remember whether or
14 not that was true. That's the evidence before you. But in any
15 event, that's argument. I'm just simply asking him whether he's
16 aware that this was said.

17 MR. CHAIRMAN:

18 You're both -- Your question was rather argumentative, too, Mr.
19 Ruby, I would suggest. The simple question you put to Mr. Seale
20 is whether or not he was aware of the statement and his answer is
21 no.

22 MR. RUBY:

23 No.

24 BY MR. RUBY:

25 Q. So you did not know that Mr. --

1 | A. No, sir.

2 | Q. -- Pratico was saying -- telling the story about the white
3 | Volkswagen around that time.

4 | A. No. I never heard of those statements by Pratico. In fact,
5 | to nobody. There was never no statements made by Pratico
6 | in the Supreme Court hearings.

7 | Q. No, that was the statement that was suppressed, that never
8 | received the light of day at the trial.

9 | BODY OF COUNSEL:

10 | Oh, we object to that -- take objection to that --

11 | MR. RUBY:

12 | Goodness!!

13 | MR. CHAIRMAN:

14 | You know, this Commission is not going to have counsel making
15 | statements that are not sustainable by the evidence before them.
16 | You can argue as to how you feel this Commission should interpret
17 | statements or interpret behaviour patterns but please credit us
18 | with being alert enough to know what's in evidence and what isn't.

19 | COMMISSIONER EVANS:

20 | And save the arguments for later.

21 | MR. CHAIRMAN:

22 | That's right and save the arguments for later on.

23 | BY MR. RUBY:

24 | Q. The R.C.M.P. officer that you spoke to in 1971, can you tell me
25 | anything about where this took place or what division he might

1 have been from.

2 A. Oh, yes, it was in Sydney division here. Sydney.

3 Q. Was he a man on duty at a particular time?

4 A. Oh, I -- More than likely, because he answered the phone.

5 Q. All right. Can you remember what time that was?

6 A. Yes. I -- I figure around -- I had talked to Marshall I'd
7 say somewhere between six-thirty, seven o'clock in the morning
8 and this would be about fifteen, twenty minutes later one way
9 or the other that I called the R.C.M.P. I thought about my
10 job and what possible about this car business, see.

11 Q. Right.

12 A. That's why I called them.

13 Q. Do you remember his rank, by any chance?

14 A. No, he never stated no rank or nothing to me. He just --

15 COMMISSIONER EVANS:

16 I understood the evidence was he didn't even know it was an R.C.M.P.
17 officer.

18 BY MR. RUBY:

19 Q. But you dialed the R.C.M.P. number?

20 A. Certainly.

21 Q. You probably know more about the R.C.M.P. in Sydney than I
22 do. I take it then it would be a civilian employee or a
23 member of the R.C.M.P. Is that the way it operates? Do you
24 know?

25 A. Run that by me again.

1 Q. Do you know -- I think the answer is you don't know. Do you
2 know how the R.C.M.P. operates in Sydney, whether they have
3 civilian members or not?

4 A. Would they have civilian members?

5 Q. Do you know that or not?

6 A. Oh, I would not know that. My only work with them --

7 Q. If you don't know, that's all I want to get. That's fine.
8 The third area I wanted to touch on if I might is the 1982
9 investigation. I take it you appreciate the police have an
10 obligation when they're doing police work -- I'll repeat that
11 again. Coming back to the 1982 investigation, --

12 A. Yeh.

13 Q. I take it you appreciate that when police are doing police work
14 they have an obligation to keep that work confidential?

15 A. Right.

16 Q. Because otherwise the whole world knows what they're doing
17 and evidence may vanish? Yes?

18 A. Right.

19 Q. Witnesses may be interfered with, correct?

20 A. Correct.

21 Q. And you understand that while in the middle of an investigation,
22 they can't talk to you about it either. Fair enough?

23 A. Well, I can't see why not. I was in -- directly involved
24 in this. After all my dead son couldn't speak for himself.
25 So --

- 1 Q. But they have an obligation to keep it secret even from
2 someone who's the father of the victim. Wouldn't you agree
3 with that?
- 4 A. No, I don't agree with that whatsoever.
- 5 Q. Because of the danger of --
- 6 A. No way.
- 7 Q. Do you appreciate the danger that if they tell you or someone
8 who perhaps is not as trustworthy as you, word would get out
9 and witnesses may be interfered with.
- 10 A. I don't see why they had any fear of telling me but I can
11 certainly show you a scrapbook full of stuff that they had
12 put out before they came near me. My son had to send them
13 to me. This was already out to the public.
- 14 Q. That's the next area I want to touch on. You don't know whether
15 they put it out or whether the press did a proper job.
- 16 A. I --
- 17 Q. Hear my question. Namely, by going around to the witnesses
18 involved and asking them questions about whether they changed
19 their story and doing a normal press investigation. Isn't
20 that so? You don't know whether that happened or not?
- 21 A. I don't know if that happened or not.
- 22 Q. So there may not be any blame to be attached to those two
23 officers at all? Fair?
- 24 A. Possibly not. Possibly not.
- 25 Q. And all that's required for that conclusion is for you to

OSCAR SEALE, by Mr. Ruby

1 assume that the press did the kind of job that they're supposed
2 to do in a free society. Fair?

3 A. Right, right.

4 MR. RUBY:

5 Thank you, sir.

6 MR. CHAIRMAN:

7 That's all. Thank you very much, Mr. Seale. You're very helpful.

8 MR. SPICER:

9 My Lord, I was wondering if we could break until after lunch.

10 MR. CHAIRMAN:

11 There's no other witness available now?

12 MR. SPICER:

13 No.

14 MR. CHAIRMAN:

15 All right, will the next witness be available at two?

16 MR. SPICER:

17 Yes, and could be I think perhaps before that if need be, one-
18 thirty.

19 MR. MacDONALD:

20 Yes, depending on your -- a meeting with Your Lordships --

21 MR. CHAIRMAN:

22 Well, what do you want?

23 MR. MacDONALD:

24 Art Mollon is going to give evidence but he's attending a trial
25 this morning.

DISCUSSION BETWEEN COMMISSION AND COUNSEL

1 MR. CHAIRMAN:

2 At two o'clock. Will this witness be very long?

3 MR. MacDONALD:

4 No.

5 MR. CHAIRMAN:

6 That's the only -- Now let's see where we're going tomorrow. We
7 have --

8 MR. MacDONALD:

9 There may be another witness today, My Lord. Mr. Pugsley and I
10 are going to have a chat and there may be one other but we could
11 certainly finish this afternoon. Tomorrow we will be calling
12 Professor Bruce Archibald who will be giving an opinion evidence
13 on the conduct of the or the evidentiary rulings given at trial
14 and followed by Inspector Marshall of the R.C.M.P. who did the
15 1971 re-investigation. At present that is our intention. That
16 will be all of the witnesses this week. We will then -- If we
17 finish early -- We don't -- The only other witness remaining
18 after that would be Chief MacIntyre for the Sydney sittings and
19 we would prefer not to start him and then break for a period of
20 time so we'd rather come back and start with Chief MacIntyre.
21 I think it's December the 7th.

22 COMMISSIONER POITRAS:

23 Should we make an effort to obtain a Messrs or Mr. Keith Beaver
24 if he happens to be around?

25 MR. MacDONALD:

Yes, My Lord. Keith Beaver is in, I think, it's Liverpool or

DISCUSSION BETWEEN COMMISSION AND COUNSEL

1 Lunenburg. I will put a call in to him right away.

2 MR. CHAIRMAN:

3 If he is --

4 MR. MacDONALD:

5 And we'll see if we can find this Karen MacDonald. I'm not certain
6 if our investigator has spoken to Karen MacDonald. We'll certainly
7 see if we can get Mr. Beaver down tomorrow.

8 COMMISSIONER POITRAS:

9 And how would you get a hold of Alana Dixon through the R.C.M.P.?

10 MR. MacDONALD:

11 Well, we'll check that out.

12 MR. CHAIRMAN:

13 Well, let me get back on track. The plan is this afternoon we
14 will finish -- we will hear whatever witnesses are available. Most
15 likely tomorrow the only two witnesses -- witness available will be
16 Professor Arichbald who is giving, I understand -- well, his
17 opinion has been filed.

18 MR. MacDONALD:

19 It's not been filed, My Lord.

20 MR. CHAIRMAN:

21 Isn't it?

22 MR. MacDONALD:

23 It'll be filed in the morning.

24 COMMISSIONER EVANS:

25 It's been circulated.

DISCUSSION BETWEEN COMMISSION AND COUNSEL

1 MR. CHAIRMAN:

2 Circulated to counsel. I assume only certain counsel have an
3 interest in that opinion because it would be -- there are others
4 that I can't see who would be interested and then of course,
5 there's always the courage of a practicing lawyer to challenge
6 a learned professor. With that rider and nebulous qualification,
7 I would assume that we will use our best efforts to complete both
8 these witnesses tomorrow and I know that there's a matter of public
9 importance that will require us to be through by six o'clock. So
10 we will complete these two witnesses tomorrow; full stop. And if
11 you can find Mr. Beaver and bring him here tomorrow, fine, if it's
12 convenient. You know, you may have problems. If not, we can hear
13 him in Halifax or squeeze him in Sydney that week, you know.

14 MR. MacDONALD:

15 Well, we do have Thursday here, My Lord, if we -- it's been
16 reserved.

17 MR. CHAIRMAN:

18 I realize that.

19 MR. MacDONALD:

20 Yes, but your intention would not be to have Mr. Beaver here
21 Thursday if I read you correctly.

22 MR. CHAIRMAN:

23 One has to look at costs some time and if Mr. Beaver's statement
24 is an indication of the length of time he'll be in the witness
25 box, we won't be very long.

DISCUSSION BETWEEN COMMISSION AND COUNSEL

1 | MR. MacDONALD:

2 | That's my understanding.

3 | MR. CHAIRMAN:

4 | So hopefully we can either hear him tomorrow or alternatively when
5 | we're in Sydney later on in December or if that is not possible,
6 | we still have Halifax.

7 | MR. MacDONALD:

8 | Thank you.

9 | MR. CHAIRMAN:

10 | Adjourn until two.

11 |

12 | INQUIRY ADJOURNED: 11:33 a.m.

13 |

14 |

15 |

16 |

17 |

18 |

19 |

20 |

21 |

22 |

23 |

24 |

25 |

JMC